

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the matter of	)	
	)	
Cable & Communications Corporation	)	
d/b/a Mid-River Cable Television	)	
	)	
Operator of Cable Systems in:	)	
	)	
Ryegate, Montana	)	File No. EB-04-HS-030
Hysham, Montana	)	
Harlowton, Montana	)	
	)	
Request for Waivers of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: June 28, 2004**

**Released: June 30, 2004**

By the: Director, Office of Homeland Security, Enforcement Bureau

I. In this *Order*, we grant Cable & Communications, d/b/a Mid-Rivers Cable Television (Mid-Rivers) temporary waivers of section 11.11(a) of the Federal Communications Commission's (Commission) rules (Rules)<sup>1</sup> for the three above-captioned cable television systems. Section 11.11(a) of the Rules requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System (EAS) messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>2</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934, as amended<sup>3</sup> and required that cable systems be capable of providing EAS alerts to their subscribers.<sup>4</sup> In

<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> *Id.*

<sup>3</sup> The Communications Act of 1934 was amended by the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

<sup>4</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>5</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>6</sup> The Commission declined to exempt small cable systems from the EAS requirements entirely, however, concluding that such an exemption would be inconsistent with the statutory mandate of section 624(g).<sup>7</sup> The amended rules extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>8</sup> In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.<sup>9</sup>

3. On March 5, 2004, Mid-Rivers filed a request for temporary waivers of the EAS requirements for the recently acquired above-captioned cable systems.<sup>10</sup> In support of its waiver request Mid-Rivers indicates that the three subject cable television systems serve small, rural communities: Ryegate serves 33 subscribers; Hysham serves 54 subscribers; and Harlowton serves 263 subscribers. Based on price quotes from EAS equipment manufactures, Mid-Rivers estimates that it would cost \$27,000 to purchase and install EAS equipment at the three headends. Mid-Rivers provides financial data in support of its contention that the cost of immediate installation of EAS equipment in the three headends would cause substantial financial hardship. Finally, Mid-Rivers contends that its subscribers will continue to have ready access to national EAS information from other sources, including its cable system and over-the-air reception of broadcast television and radio stations.

4. Based on our review of the financial data and other information submitted by Mid-Rivers, we conclude that temporary waivers of section 11.11(a) of the Rules for the cable television systems in Ryegate, Hysham, and Harlowton, Montana are warranted. In particular, we find that the estimated \$27,000 cost to purchase and install EAS equipment at these recently acquired cable television systems could impose a financial hardship on Mid-Rivers.

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 0.111, 0.204(b) and 0.311 of the rules,<sup>11</sup> Cable & Communications Corporation, d/b/a Mid-Rivers Cable Television's request for temporary waivers of section 11.11(a) of the rules is **GRANTED** until October 1, 2005, for its cable television systems in Ryegate, Hysham and Harlowton, Montana.<sup>12</sup>

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<sup>5</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rule Making, 10 FCC Rcd 1786 (1994), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

<sup>6</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Second Report and Order, 12 FCC Rcd 15503 (1997).

<sup>7</sup> *Id.* at 15512-13.

<sup>8</sup> *Id.* at 15516-15518.

<sup>9</sup> *Id.* at 15513.

<sup>10</sup> The Commission previously granted temporary waivers of the EAS requirements, until October 1, 2005, to the prior owner and operator of the subject cable systems. *See, SM Cable Holding, L.L.C.*, Order, 18 FCC Rcd 10 (2002) (Chief, Technical and Public Safety Division, Enforcement Bureau). However, previously granted waivers do not continue to apply when the cable systems are sold.

<sup>11</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

<sup>12</sup> We clarify that these waivers also encompass the EAS testing and monitoring requirements.

6. **IT IS FURTHER ORDERED** that Cable & Communications Corporation, d/b/a Mid-Rivers Cable Television place a copy of this waiver in its system files.

7. **IT IS FURTHER ORDEED** that a copy of this Order shall be sent by Certified Mail Return Receipt Request to counsel for Cable & Communications Corporation, d/b/a Mid-Rivers Cable Television, Marci E. Greenstein, Kraskin, Lesse & Cosson, LLC, 2120 L Street, N.W., Suite 520, Washington, D.C. 20037.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey  
Director, Office of Homeland Security  
Enforcement Bureau